

Appl. No. : 10/029,712

Filed : December 19, 2001

REMARKS

Double Patenting

In response to the Examiner's rejections that the claims of the present application are unpatentable over the claims of U.S. Patents 6,372,195, 5,639,443, and 6,258,339, the Applicant hereby respectfully submits three terminal disclaimers, disclaiming the terminal part of the statutory term of the instant application which would extend beyond these patents.

Written Description (35 U.S.C. § 112)

In the Final Official Action mailed November 10, 2004 (hereinafter "the Office Action"), the Examiner rejected claims 1-20 of the present application under 35 USC § 112, first paragraph, for allegedly failing to meet the written description requirement, specifically pointing to claims 1, 10, 18, and 19.

The Examiner rejected claims 1 and 10 of the present application asserting that the specification failed to describe the limitation that gas B is present in an amount of 50-99% by volume in claim 1, or the 0.5-50% by volume of gas B as set forth in claim 10. Applicant respectfully traverses this rejection as these limitations are inherently present in the disclosure of the instant patent application. In response, the Applicant further submits a Declaration under 37 C.F.R. 1.132, as an attachment to this reply. In the Declaration, the Applicant puts forward evidence that claims 1 and 10 are inherently supported by the written description and asserts that the invention was described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the present invention. More specifically, the Applicant shows that under the Ideal Gas Law, which applies to all gases enclosed in a container (including in bubbles), the limitations of claims 1 and 10 are always and necessarily present in the application. As set forth in Applicant's Declaration, by following the basic principles of the Ideal Gas Law, the mole fractions recited in the specification are the equivalent to the volume fractions of each gas recited in claims 1 and 10. In the Applicant's Declaration, paragraph 11 states that claims 1 and 10 are both supported by page 4, paragraph 13 of the specification disclosing a mixture of gases inside microbubbles, "wherein the first gas and the second gas are respectively present in a molar ratio

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of about 1:100 to about 1000:1”, which, under the Ideal Gas Law equals 99% B to about 0.1% B. Further, page 15, paragraph 49 of the specification reiterates these molar ratios and presents further preferred values for the mixture of gases A and B that can readily be converted by the skilled artisan to volume percentages using the Ideal Gas Law. Therefore, the volume percentage limitations recited in claims 1 and 10 are always and necessarily present in the specification of the instant patent application. Thus, the Applicant respectfully submits that claims 1 and 10 are in condition for allowance.

The Examiner rejected claims 18 and 19 of the present application because it was unclear whether the limitations of claims 18 and 19 further limit the claims each depends from. In response to the Examiner’s rejections, and keeping in accord with the statements presented in the Applicant’s Declaration, the Applicant respectfully amends claims 18 and 19 to recite the molar ratios from between about 50:1 to about 1:1, and from between about 1:1 to about 1:50, respectively. As discussed in the Applicant’s Declaration, these molar ratios are equivalent to between about 2% to about 50%, and to between about 50% to about 98%, respectively. Applicant submits that these molar ratios are fully supported in the specification (e.g. see page 15, paragraph 49) and that these claims, as amended, further limit the invention. Thus, the Applicant respectfully submits that claims 18 and 19 are in condition for allowance.

In the Office Action, the examiner rejected claims 8, 9, 18 and 19 under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. In response, the Applicant has amended these claims as set out above. Thus, the Applicant respectfully submits that claims 8, 9, 18 and 19 are in condition for allowance.

A one month extension of time is hereby requested for responding to the Office Action. The \$255 fee (\$60 for extension for response within first month (see 37 C.F.R. 1.17(a)(1)), and \$195 (\$65 x 3) for submission of 3 statutory disclaimers (37 C.F.R. 1.20(d))) is being made by credit card payment. The required credit card payment form is attached. If any other fees are due, the USPTO is authorized to charge Deposit Account No. 50-3329.

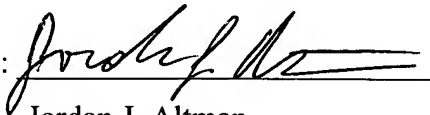
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In view of the present amendments, attached Declaration and associated remarks, reconsideration and allowance of all the pending claims is respectfully requested. If there are any questions, Applicant's attorney can be reached at the telephone number stated below.

Respectfully submitted,

Dated: March 10, 2005

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